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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,644	05/09/2001	Peter J. Neumayer	SMUS.0008	3598

7590

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EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/851,644

Applicant(s)

NEUMAYER, PETER J.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-19 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13, 17-19 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 14-16 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention via Paper No. 4. Claims 3, 7, 8, 10, 20 and 25 have been canceled via Paper No. 5. Claims 1, 2, 4-6, 9 and 21 were canceled via Paper No. 7. Claims 11-19 and 22-24 are pending in the instant application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 11-13, 17 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker U.S. Patent No. 6,418,415.**

Referring to claim 11. Walker discloses a process of aggregating demands comprising the steps of:

- Validating incoming data so as to ensure said data is valid (at least column 12, line 64 to column 13, line 15);
- Processing said incoming data so as to extract an aggregation rule and at least one demand (at least Fig. 13A, Fig. 13B, and Fig. 13C);

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- Processing said aggregation rule so as to apply said aggregation rule against said at least one demand to create at least one group based upon said aggregation rule (at least Fig. 9); and
- Outputting output data indicative of said at least one group (at least Fig. 7).

Referring to claims 12-13. Walker further discloses a process of aggregating demands:

- Wherein said incoming data is XML based (at least column 9, lines 57-62); and
- Wherein said output data is XML based (at least column 9, lines 57-62).

Referring to claim 17. Walker discloses a process of creating coalitions of demands comprising the steps of:

- Creating a process ID to identify a process through which said coalitions are to be created (at least Fig. 9, Rule Number **1210**);
- Creating groups of demands based upon an application of an aggregation rule (at least Fig.9, CONDITIONS **955**);
- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**);
- If said attributes are missing, automatically acquiring said attributes from another source (at least Fig. 13B, Step **1318**);
- Assigning a unique group ID for each group created and assigning said process ID to said demands (at least Fig. 9, CPO Number **930**);
- Assigning said demands to said coalitions based upon said group IDs (at least Fig. 9, CPO Number **930** and CONDITIONS **955**); and

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- Once a predetermined time period has passed, closing said coalitions (at least Fig. 9, AGGREGATE CPO EXPIRATION DATE **950**).

Referring to claim 22. Walker discloses a process of grouping demands input into a system by a user into coalitions of demands comprising the steps of:

- Inputting demands into a demand aggregation application (at least Fig. 13A, Step **1308**);
- Analyzing said demands by applying an aggregation rule (at least Fig. 13A, Step **1314**);
- If said analysis of said demands indicates that said demands meet criteria of a plurality of coalitions, proposing said plurality of coalitions to said user (at least Fig. 13A, Step **1316**);
- Permitting said user to assign said demands to said one or more of said coalitions (at least Fig. 13B, Step **1324**); and
- If said analysis of said demands indicates that said demands do not meet criteria of any of said coalitions, automatically creating a new coalition to accommodate said demands (at least Fig. 13C, Step **1344**).

Referring to claim 23. Walker in view of Official Notice discloses a process according to claim 22 as indicated supra. Walker further discloses a process of grouping demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and

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- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Referring to claim 24. Walker discloses a process of aggregating demands according to an aggregation rule comprising the steps of:

- Collecting demands from a plurality of sources;
- Determining if any attributes of said demands are missing;
- If said attributes are missing, acquiring said attributes from another source;
- Creating groups of demands based upon an application of said aggregation rule (at least Fig. 13A, Fig. 13B, and Fig. 13C); and
- Forwarding said demands to a demand aggregation application (at least Fig. 13B, STEP 1326).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker U.S. Patent No. 6,418,415 in view of Official Notice.**

Referring to claims 18-19. Walker discloses a process according to claim 17 as indicated supra. Walker further discloses a process of creating coalitions of demands comprising the step of permitting automatic addition of additional demands to said coalitions and also permitting coalitions to be automatically closed prior to said

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predetermined time period passing (at least Figs. 13A, Figs. 13B, and Figs. 13C).

Walker does not expressly disclose a process of creating coalitions of demands comprising the step of permitting manual addition of additional demands to said coalitions and also permitting coalitions to be manually closed prior to said predetermined time period passing. Examiner takes Official Notice that the manual limitation present in the immediate application does not act to patentability distinguish the claimed invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to permit the manual limitation in lieu of Walker's automatic limitation, because the manual limitation is merely a step backwards in the Walker's technology. It has generally been recognized that merely providing an automatic (manual) means to replace a manual (automatic) activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

### ***Response to Arguments***

Applicant's arguments filed 14 April 2003 have been fully considered but they are not persuasive.

The Attorney argues that Walker does not disclose, "Validating incoming data so as to ensure said data is valid."

The Examiner notes, Walker discloses a system wherein the central controller **200** will receive the conditions, price and expiration date associated with the CPO from the buyer, including a description of each good or service, and an identifier of a general purpose account from which funds may be paid, such as a credit or debit card account,

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during step **1304**. This identifier of a general-purpose account is used to verify the buyer's financial transaction. It would not be possible for a buyer to transfer these funds unless relevant information was verified.

The Examiner further notes, the "Background of the Invention" in Walker clearly discloses that current systems do not permit individuals to effectively utilize the buying power associated with volume purchases to achieve the same substantial unit cost savings which are available to institutional purchasers, especially on commodities and perishable items. While prior systems have attempted to exploit the purchasing power associated with groups of consumers, no prior system has solved the above-mentioned problems of authenticating the group's offer and enforcing any agreement reached between the group and the seller. The goal of Walker to authenticate a group's offer is directly related to Walker's validation procedure.

The Attorney argues that Walker does not disclose determining if any attributes of said demands are missing and if said attributes are missing, automatically acquiring said attributes from another source.

The Examiner notes, the aggregate CPO management system preferably permits a buyer to review pending aggregate CPOs, prior to submitting a new CPO, so that the buyer can request to include a CPO in one or more existing aggregate CPOs. Thus, buyers can ensure that the conditions (attributes) of their CPO for the purchase of goods or services can meet the conditions (attributes) of the requested aggregate CPOs. In addition, the aggregate CPO management system can request a buyer (acquire said attributes from another source) to modify the original terms of a CPO to



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conform the terms to an existing aggregate CPO or one or more pending individual CPOs, so that the modified CPO can be included with the pending aggregate CPO or the pending individual CPOs to form a new aggregate CPO (column 3, lines 25-37).

The Examiner further notes, in the instant invention (page 12 of specification) an "attribute" is used to describe a "rule attribute." This is equivalent to the "condition" attribute of Walker.

The Attorney argues that Walker does not address the situation where a demand meets the criteria of a plurality of coalitions

The Examiner notes, Walker does disclose searching an aggregated database (including a plurality of coalitions) for active aggregated cpo's similar to the buyer cpo's.

The Examiner further notes, the attorney argues that Walker only discusses assigning the demand to a random coalition. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Walker only discusses assigning the demand to a random coalition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner notes, the Official Notice relating to claim 18-19 was not traversed by the Attorney and therefore is taken to be admitted prior art. See MPEP 2144.03(C).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

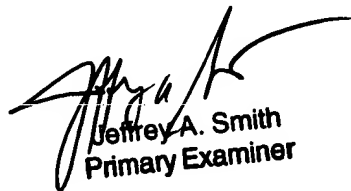
Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

November 24, 2003



Jeffrey A. Smith  
Primary Examiner